

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAHMAN BANKS,

Defendant-Appellant.

---

UNPUBLISHED

September 30, 2003

No. 239519

Wayne Circuit Court

LC No. 00-006875-01

Before: Owens, P.J. and Griffin and Schuette, JJ

PER CURIAM.

Defendant was charged with first-degree murder, MCL 750.316, and possession of a firearm during the commission of a felony, MCL 750.227b. Following a jury trial, he was acquitted of murder, but convicted of felony-firearm, and sentenced to two years' imprisonment. He appeals as of right. We affirm.

Defendant was accused of shooting and killing Lajuan McDonald after a dispute on the porch of defendant's house. Defendant denied being involved in the shooting, claiming that he had gone into the house and knew nothing about a dispute or any shots being fired.

On appeal, defendant argues that his felony-firearm conviction must be reversed because the jury obviously concluded that he was not involved with the shooting, inasmuch as it acquitted him of murder. We must determine whether, when the evidence is viewed in the light most favorable to the prosecutor, a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979). Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of the crime. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 117 (1993).

At trial, Olympia Johnson testified that, when codefendant Nasir Banks was hitting McDonald with a baseball bat, no guns were involved. She stated that defendant subsequently came out the back door with a gun and, seconds later, gunshots were heard. McDonald died from multiple gunshot wounds.

Although the commission or attempted commission of a felony is an element of the offense of felony-firearm, a defendant need not be *convicted* of a felony or the attempt to commit a felony in order to be convicted of felony-firearm. *People v Lewis*, 415 Mich 443, 454-455; 330

NW2d 16 (1982). We disagree with defendant's claim that his acquittal on the principal felony charge is an implicit finding that there was insufficient evidence that he was guilty of felony-firearm. Rather, the jury's decision to convict defendant of felony-firearm properly may be construed as an implicit finding that he did commit or attempt to commit the felony, notwithstanding his acquittal. *Id.* at 452; *People v Bonham*, 182 Mich App 130, 136; 451 NW2d 530 (1989). Thus, the jury's decision to acquit defendant of murder does not compel a conclusion that there was insufficient evidence to convict defendant of felony-firearm. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's felony-firearm conviction.

Affirmed.

/s/ Donald S. Owens  
/s/ Richard Allen Griffin  
/s/ Bill Schuette